



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 15, 2008

The Honorable Martha Fuller Clark, Chairman
Energy, Environment and Economic Development Committee
Legislative Office Building, Room 102
Concord, New Hampshire 03301

Re: SB 352-FN, relative to shoreland protection.

Dear Chairman Fuller Clark:

Thank you for the opportunity to comment on SB 352-FN, which would give the New Hampshire Wetlands Council jurisdiction over appeals of decisions made by the Department of Environmental Services (DES) under RSA 483-B relative to protected shorelands. The DES supports this bill for the reasons explained below.

SB 352 would consolidate and simplify the appeals process for both appellants and DES. Currently, for many sites, those who wish to appeal DES decisions with jurisdiction under both RSA 482-A (Dredge and Fill in Wetlands) and RSA 483-B (Comprehensive Shoreland Protection Act) must file two appeals: one with the Wetlands Council for those aspects of the project that are regulated under RSA 482-A, and the other with the Water Council for those aspects of the project that are regulated under RSA 483-B. This bill would allow aggrieved parties to appeal both types of DES decisions to a single appellate body, thus avoiding confusion, delays, and potentially-conflicting decisions.

We understand that another goal of this bill is to change the type of appeal hearings conducted by the Wetlands Council from record hearings to evidentiary hearings. Under the current statute, the Wetlands Council is not allowed to take new testimony or new evidence; it is restricted to considering the information (record) that was compiled in the proceedings prior to the appeal. By revising the statute to allow the Wetlands Council to conduct evidentiary hearings, the Wetlands Council's process would be consistent with the process followed by the other councils established to advise DES and hear appeals of DES decisions relating to air resources, waste management, and water-related programs other than wetlands.

Thank you for this opportunity to comment on this bill. Please feel free to call me at 271-3503, or Collis Adams at 271-4054, if you have any questions or need additional information.

Very truly yours,

Thomas S. Burack

Thomas S. Burack
Commissioner

cc: Senators Hassan and Cilley
Representatives Borden, Grote, and Spang